THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7486 OF 2006

DATED: 17-04-2006

BETWEEN

Dr. V. Vimala Devi,

W/o. Late Dr. Narayana Rao,

Occ: Doctor, R/o. D.No.12-9-3,

Suryaraopet, Kakinada,

East Godavari District.

...PETITIONER

AND

Kakinada Municipal Corporation

Kakinada, East Godavari District

Rep. by its Commissioner.

...RESPONDENT

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondent authorities in trying to demolish the structures bearing Door No.13-1-31/1 belonging to the petitioner situated in Suryaraopet, Kakinada, East Godavari District without issuing any notice and without paying any compensation as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of the aforementioned premises having inherited the same though a registered gift deed dated 04.08.1989 from her parental Aunt and she constructed a nursing home in the said building

duly obtaining permission from the municipal authorities and she has been paying tax to the municipality. While so, the respondent corporation decided to widen the road in Kakinada municipal limits and started surveying the roads and the building of the petitioner was found to be within her zeroithi site. The respondents with a view to ease the traffic congestion and thereby ensure free flow of traffic have taken up the job of road widening on all the main roads of Kakinada.

Learned counsel for the petitioner further submits that the subordinates of the respondent visited the premises of the petitioner on 11.04.2006 and put red markings on the building of the petitioner showing the structures to be demolished. He further submits that the building of the petitioner is situated in her own site and there is no encroachment and there are no deviations.

The main grievance of the petitioner is that the respondent has not issued any notice before deciding to demolish the said building and the respondent corporation is trying to demolish the buildings for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, which is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondent is directed not to demolish the structures of the petitioner and not to dispossess her without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 17, 2006

Note: Furnish C.C. of the order by 19.04.2006

(**B/o**)

DSK